

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-758

October 6, 1998

PUBLIC UTILITIES COMMISSION
Investigation into Use of Central
Office Codes (NXXs) by New England
Fiber Communications L.L.C. d/b/a
Brooks Fiber Communications

NOTICE OF INVESTIGATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. INTRODUCTION

In this Notice, we commence an investigation into activities by New England Fiber Communications L.L.C. d/b/a Brooks Fiber Communications (Brooks). In this Notice we propose to find that Brooks's actions constitute an unreasonable act or practice by a public utility within the meaning of 35-A M.R.S.A. § 1306 and to order corrective actions.

Brooks is a competitive local exchange carrier (CLEC) authorized by this Commission to provide local exchange and interexchange service in the State of Maine. Brooks has obtained some 52 Central Office Codes (CO codes or NXXs) in Maine that are outside the area that it has designated in its terms and conditions as its local exchange service area (the municipalities of Portland, South Portland and Westbrook). As described below in this Notice, it does not appear that Brooks is offering local exchange service in any of those 52 locations. Brooks's actions, particularly if emulated by other CLECs and incumbent local exchange carriers (ILECs), have the potential for creating significant short-term and long-term consequences. First, use of a large number of CO codes for a purpose other than providing local exchange service presents a serious risk that Maine will run out of CO codes in the 207 area code, and will need a second area code, thus causing substantial disruption to a large number of customers.

At present, for a CLEC to provide local exchange service, it must obtain its own unique CO code to provide local exchange service in a given location; because of present technological limitations, a CLEC cannot use the same CO code(s) assigned to an ILEC. The prospect of running out of CO codes in the near future, making a second area code in Maine necessary, is particularly disturbing in light of the fact that technological

solutions (primarily a permanent number portability system) may become available in one or two years, thus making it unnecessary for CLECs to obtain their own separate codes for any given geographic area.

Second, Brooks's actions appear to be designed to avoid the payment of toll charges by end users or access charges by Brooks for interexchange calls and interexchange service provided by the ILECs. Brooks's actions have the potential for breaking down or eroding the distinction between local and toll-calling areas. Any such breakdown may substantially alter the existing rate structure and may require substantial additional investment by ILECs, CLECs or both. Whether such a breakdown or erosion is desirable presents a serious policy question; such a breakdown or erosion should be conscious policy choice rather a consequence of actions that are designed to avoid the present rate structure.

The concerns described above, particularly the first, call for an expedited process and for prompt decisions. The North American Numbering Plan Administrator (NANPA) has informed the Commission that it projects that CO codes in the 207 area code will be exhausted by the second quarter of 2000 and has requested that the Commission adopt a plan for implementing on a second area code by December 1, 1998. Because of the inevitable disruption to many customers that a second area code will cause, we believe that we should take all reasonable actions to prevent that occurrence. The expedited procedure described in this Notice contains a set of proposed findings (Part III) and a set of proposed actual and legal conclusions (Part IV). We propose an expedited process not only because of the need for prompt decisions, but because we have available to us substantial information acquired in the course of our *Inquiry Regarding Local Calling Arrangements to CLEC NXX Codes* in Docket No. 98-661, that opened on August 31, 1998. A Commission inquiry is authorized by Chapter 110, §§ 1201-06 and is a process that allows the Commission to gather facts. Section 1206(c) permits the Commission at the conclusion of an inquiry to:

Make findings of fact or issue a preliminary statement of policy which is not intended to be enforceable but which is intended as a basis for implementing an [adjudicatory investigation or rulemaking]

We have not and will not make findings in the Inquiry. Instead, we close the Inquiry and propose findings of fact in this investigation that are based on the information gathered in the Inquiry.

In addition to the proposed factual findings and factual and legal conclusions, we will also consider what orders, if any, we shall enter at the conclusion of this investigation. Possible orders are described in Part V.

II. PARTIES; INTERVENTION

As this investigation is into activities by New England Fiber Communications L.L.C. d/b/a Brooks Fiber Communications (Brooks), Brooks shall be a party to this investigation.

Because of their obvious interest in the outcome of this case, all ILECs and the Telephone Association of Maine (TAM) are made parties.

All other persons having an interest in this proceeding may file a **petition to intervene** on or before **October 13, 1998**. In addition to the information required by Chapter 110, § 722, if a proposed intervenor intends to contest any of the proposed findings contained in Part III of this Notice, the Notice of Intervention shall include a notice of intent to contest any offers of proof as required in Part III(B) below.

III. PROPOSED FACTUAL FINDINGS & PROCEDURE FOR FACT FINDING

A. Proposed Factual Findings

Based on representations and statement made at the technical conference in the Inquiry held on September 1, 1998; in Brooks's Response filed on September 8, 1998; in a letter filed by the Telephone Association of Maine (TAM) on September 4, 1998; information received from TAM and the TDS telephone companies that supplemented on corrected portions of the TAM letter; and a letter from Pine Tree Telephone Company filed on September 28, 1998, the Commission proposes to make the following factual findings:

1. New England Fiber Communications L.L.C. d/b/a Brooks Fiber Communications (Brooks) is a competitive local

exchange carrier (CLEC) as defined by Maine and Federal law. See Chapter 280, §§ 2(C), (D) and (J); 47 U.S.C. §§ 153(26) and 251(H). The Commission granted Brooks the authority to provide local exchange service in the State of Maine in an Order issued in Docket No. 97-331 on July 25, 1997, and interexchange service in an Order issued on September 9, 1997 in Docket No. 97-559.

2. Brooks owns and maintains a switch in the City of Portland. Bell Atlantic and Brooks own and maintain trunking between Brooks's switch and BA's toll tandem switch in Portland.

3. Brooks's terms and conditions on file with the Commission define its service area as follows: "Where facilities are available, the Company's service area consists of the local exchange as described in Attachment A." Attachment A is a map that depicts the areas included within the municipal boundaries of Portland, South Portland and Westbrook. This Notice will refer to that exchange as "Brooks Portland area exchange" or the "Brooks exchange."¹

4. Brooks has applied for and has obtained 55 CO codes (NXXs) from the North American Numbering Plan Administrator (NANPA). Presently the NANPA is Bell Atlantic; Lockheed Martin will take over this function in late October. The 55 codes are assigned to various geographic locations throughout the State. Only 3 of the CO codes are assigned to locations within the Brooks's Portland area exchange. Those three codes are Portland 228, South Portland 239 and Westbrook 464.

5. Brooks designated and the NANPA assigned the other 52 CO codes to locations outside the Brooks exchange and outside the Portland calling area as defined by the ILECs' terms and conditions. This Notice will refer to these 52 codes as the "non-Portland CO codes."

¹The Brooks exchange lies entirely within Bell Atlantic's Portland calling area (areas/exchanges that are included in the BSCAs of BA-ME's Portland, South Portland and Westbrook exchanges), as defined by the Bell Atlantic's terms and conditions, Part A, § 6. Bell Atlantic's Portland exchange includes the municipalities of Portland and South Portland, as well as Falmouth and Cape Elizabeth. Its BSCA consists of the exchange itself plus Cumberland, Freeport, Gorham, Pownal, Scarborough, Westbrook, Windham, Yarmouth, Gray and West Gray. The Westbrook exchange includes the City of Westbrook. Its BSCA includes Portland, Gorham, Windham and Scarborough.

6. Brooks does not own, lease or maintain any facilities (switches, loops, interoffice facilities, etc.) in any of the locations at which the 52 non-Portland area CO codes are assigned.² A potential subscriber located in one of those locations is not able to obtain local exchange service (loop, local switching, local dial tone) from Brooks at that location. If Brooks were to offer local exchange service in one of the non-Portland CO code areas, for example Augusta, and it used its Portland switch for switching, Brooks would need to obtain a dedicated facility (a loop and an interoffice facility) from the customer's premises in Augusta to the Brooks's switch in Portland. Alternatively, it could place a switch in Augusta and build (or buy) a loop from that switch to the customer in Augusta.

7. Because Brooks does not deploy local facilities in any of the non-Portland locations, a person placing a call to one of those codes cannot be connected to a Brooks customer that has a customer premises³ in the location to which the code is assigned, except under the circumstances described in paragraph 10 below. Normally, the call will be routed to (or terminate at) a Brooks customer that is located in the Brooks Portland area exchange, and that is connected by a loop or other transport facility provided by Brooks (or by the customer) to Brooks's Portland switch. Thus, if a customer calls a number in Brooks's 835 code (assigned to Augusta), the customer will be connected to a Brooks customer located in Brooks's Portland area exchange, and not to a Brooks customer located in Augusta.

If, for example, a BA customer in Augusta calls a number with an 835 CO code (the Brooks code that is assigned to Augusta), the call will be routed as follows:

- ♦ from the BA customer's premises in Augusta over the BA loop facilities assigned to that customer to the local BA Augusta switch;
- ♦ then over BA's trunking (transport) facilities either directly to Brooks's switch in Portland (for overflow traffic, according to Brooks's response) or to BA's tandem (toll switch) in Portland, then over the trunks that run from BA's tandem to Brooks's switch;

²Brooks also does not purchase local service for resale purposes from BA so that it would be able to provide local service to any of those locations. If a CLEC did provide local service through resale, it would not acquire its own CO code.

³A customer premises is a place, normally a building, at which an access line may terminate.

- ♦ then to Brooks's customers having premises in the Brooks's Portland area exchange over a Brooks loop or other transport facility assigned to that customer.

8. If, for example, a caller in Hampden (served by an independent telephone company (ITC)) places a call to an 849 number (the Brooks code assigned to Bangor), the call is routed over trunks owned and maintained by the ITC from Hampden to the meet point between the ITC and BA, then over BA trunks either directly to the BA tandem in Portland and then to Brooks's switch in Portland, or directly to Brooks's switch in Portland, then to Brooks's customer in its Portland area exchange. It is not necessary for the call to be routed to or through Bangor on the way to Portland, although Hampden Telephone Company's and BA-ME's trunking might be configured to route it that way. The call will be switched at the Hampden switch of Hampden Telephone Company, but it will not be switched at BA-ME's Bangor switch.

9. Under both of the scenarios described in Paragraphs 7 and 8 above, the call cannot be routed from Brooks's switch to a Brooks customer either in Augusta or in Bangor; there are no transport (tracking) or loop facilities from Brooks's switch in Portland to carry the call either to Augusta or Bangor or to customers who are located in Augusta or Bangor.

10. A customer calling one of the Brooks non-Portland CO codes may on some occasions be connected to a customer location located outside the Brooks Portland area exchange, but only if Brooks or the customer has made arrangements for facilities (e.g., private lines) or services to route the traffic from Brooks's switch in Portland to the non-Portland area location. In most of those instances the calls will be routed to a non-Portland area location that is different from the location at which the CO code used by the caller is located. (For example, if the original call was placed by a caller in Augusta to an 835 number assigned to an ISP located in Biddeford, the call would ultimately terminate in Biddeford, not Augusta.)

11. The Brooks Portland area exchange is not within the BSCAs of the ILECs, BSCAs (as established in their terms and conditions and pursuant to the BSCA rule, ch. 204) for those ILEC exchanges that are located in the places to which the 52 Brooks non-Portland CO codes have been assigned.

12. Some of Brooks's customers are Internet service providers (ISPs). At least one customer provides voice-mail services. Those companies desire to route traffic from throughout the state to a single location or facility, such as an

Internet server. Brooks has assigned 7-digit telephone numbers from the non-Portland CO codes to many of those companies. Brooks and/or these companies have caused these numbers to be published, and Brooks and/or its customers have represented to their own customers that charges for the calls will be based on the location to which the CO code was designated by Brooks. For example, CO code 835 is assigned to Augusta, and customers of ISPs have been told that a call to an 835 CO code would be considered as a call to Augusta. In addition, some recent Bell Atlantic telephone directories (e.g., Portland Area, published in August 1998) have listed the 55 CO codes assigned to Brooks as located in the places (e.g., 835-Augusta) at which Brooks designated them. Thus, a Bell Atlantic customer in the Augusta exchange (or within the Augusta BSCA) who dials an 835 number (e.g., in order to connect to an ISP located in Portland), would reasonably expect that the call would be a non-toll call.

13. Bell Atlantic considers calls to the non-Portland CO codes to be calls to the locations specified by the Brooks assignments on file with the NANPA and rates them accordingly. Thus, Bell Atlantic rates a call to 835 (assigned to Augusta) as terminating in Augusta, even though it actually terminates at a Brooks customer who is located in the Brooks Portland Area exchange (or, under the circumstances described in paragraph 9, elsewhere). If a Bell Atlantic customer in Augusta calls an 835 number, there is no toll charge; the call is considered local. Similarly, if a Bell Atlantic customer in Readfield (whose BSCA includes Augusta) calls an 835 number, Bell Atlantic considers the call to be local and no toll is charged. For purposes of the interconnection agreement with Brooks, Bell Atlantic also considers the call as terminating at the location assigned to the code by Brooks and the NANPA (e.g. 835 - Augusta). Thus, for a call from Augusta or Readfield to an 835 number, Bell Atlantic pays a "reciprocal compensation" to Brooks for "interconnection pursuant to section 251(c)(2)," as provided in the interconnection agreement approved by the Commission pursuant to 47 U.S.C. § 252 on August 26, 1997, in Docket No. 97-502, even though BA transports the traffic from Augusta to Portland over its interexchange toll trunking facilities. Under the agreement, BA-ME and Brooks pay each other "reciprocal compensation" of \$.008 per minute for "Local Traffic." "Local Traffic" is defined in the agreement as traffic in the local areas included in BA-ME's terms and conditions, Part A, § 6, i.e., the local exchange plus exchanges that are included in that exchange's BSCA. The agreement also makes clear that the companies' respective access tariffs apply to all switched "Exchange Access" services⁴ and to intraLATA toll traffic (i.e., to interexchange

⁴The agreement defines "exchange access" as that term is

traffic). The agreement defines "intraLATA traffic" as all traffic that is not local. That definition is substantively identical to the definition of "interexchange communications or traffic" contained in Chapter 280, § 2(G) of the Commission's rules.

14. The independent telephone companies have treated this traffic in different ways. The majority of ITCs have not "opened up" the Brooks CO codes that are assigned to locations within their local (BSCAs), i.e., if one of their customers attempts to make a call to one of those codes, it is not completed. For example, Augusta is included in the BSCA of Winthrop, served by Community Service Telephone Company (CST). If a CST customer in Winthrop attempts to call an 835 number (the Brooks code assigned to Augusta), CST blocks the call.

Some ITCs (the six TDS companies, Pine Tree Telephone and Telegraph Company and Mid-Maine) have "opened up" the Brooks CO codes that are assigned to places within the local calling areas of those ITCs' exchanges, and rate the calls as local. Thus, those companies are rating the traffic in the same manner as Bell Atlantic.

At present, no ITC has "opened up" Brooks codes that are assigned to locations within the ITC's local calling area (EAS or BSCA) and also rated the calls to those exchanges as toll.

All of the ITCs have opened up the Brooks CO codes that are assigned to locations that are outside the ITCs' local calling area (BSCA). A call placed to a BA or ITC code at those locations is a toll call, and the ITCs also bill the call to the Brooks CO code in those same locations as toll.

One ITC, Pine Tree Telephone and Telegraph Company, has recently informed the Commission that it considers Brooks to be an interexchange carrier and that it will charge Brooks access charges for any traffic that originates in its service territory.

15. The NANPA has projected that Maine will need another area code by the second quarter of 2000. Approximately used in the Telecommunications Act. 47 U.S.C. § 153(16) states:

(16) EXCHANGE ACCESS.-The term "exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

792 CO codes are available in an area code. Of the 792 CO codes in area code 207 (including the 55 CO Brooks codes), 518 have been assigned. Within the 518 assigned codes (many to exchanges with a small number of customers), there are a large number of unused telephone numbers. Those numbers are not presently available for use by another LEC, however, because the telephone numbers within a CO code (NXX) cannot presently be apportioned among LECs; each LEC providing local exchange service in an area currently must have its own CO code. A solution that allows different LECs to use the same CO code likely will not be available for another one or two years.

B. Procedure

The Commission will provide Brooks and other parties an opportunity to contest the proposed findings. Parties contesting the proposed findings must file a notice of the facts they wish to contest and offers of proof with outlines of testimony to convince the Commission it should hold a hearing on the factual questions. An intervenor shall include a notice of intent to contest specific findings and offers of proof with its petition. If a hearing is held, other parties would have a right to present opposing evidence and to conduct cross-examination.

IV. PROPOSED FACTUAL AND LEGAL CONCLUSIONS; PROCEDURE

A. Proposed Conclusions

Based on the findings contained in Part III above, the Commission proposes to make the following factual and legal conclusions:

1. Brooks provides local exchange telephone service only in the Brooks Portland area exchange (CO codes 228, 239 and 464), consisting of areas within the municipal boundaries of Portland, South Portland and Westbrook.

2. Brooks does not provide local exchange service in any other location in the State of Maine, including the locations at which Brooks and the NANPA have assigned its 52 other CO codes (the non-Portland codes). Brooks does not have the present ability to furnish potential local exchange customers in those locations with loops, switching and other facilities that are necessary to provide local exchange service. Brooks also does

not have the legal authority to provide local exchange service in those locations because its terms and conditions on file with the Commission limit its local exchange service offering to its Portland area exchange.

3. The purpose of a CO code (NXX) is to allow a carrier to provide local service, i.e., the ability of local customers to make and receive local calls. While those codes are also used for making and receiving interexchange calls (using the LEC or a different carrier), it is not necessary for a carrier providing only interexchange (long distance) service to obtain CO codes. A customer placing a long distance call uses a local carrier to connect to the long distance carrier, either by intraLATA presubscription (1+ dialing) or by the use of a CIC code (101XXXX).⁵

4. No calls placed to the 52 non-Portland Brooks codes terminate in the locations to which those CO codes are assigned. Most or all of the calls placed to the 52 non-Portland codes terminate at premises of Brooks's customers that are within the Brooks Portland area exchange. Some of the calls placed to the 52 non-Portland codes may terminate at premises located outside of the Brooks Portland area exchange, but only if Brooks customers have arranged for the calls to be transported to those other locations by private line or similar facilities.

5. Brooks is not using the 52 non-Portland area codes to provide local service in the locations to which the codes have been assigned. Instead, Brooks has requested and is using the 52 non-Portland CO codes to gather traffic throughout the state, bring that traffic to its switch located in its Portland area exchange, and then route that traffic to customers located in the Portland area exchange. Brooks is using the codes so that end-users may obtain toll-free service between each of the locations at which the 52 codes are assigned and the Brooks Portland area exchange, and so that Brooks's customers (e.g., ISPs and voice mail providers) may gather traffic on a toll-free basis. In areas served by those ILECs (Bell Atlantic and 7 ITCs) that have permitted calls to the Brooks non-Portland area CO codes to be completed, Brooks is providing the equivalent of 800 or foreign exchange service to end users and its customers, but Brooks, Brooks's customers and end users are not paying for the costs incurred by the ILECs for providing interexchange service. End-users who are located in the local calling areas to which Brooks's non-Portland area codes are assigned place calls to those non-Portland codes, and the ILECs transport that traffic

⁵Similarly, for interstate (or intrastate intraLATA) purposes, an IXC needs to obtain a presubscription agreement with the local carrier(s) or a CIC code, but does not need CO codes.

over their facilities at their cost to Brooks's Portland area exchange.

6. On the basis of the findings herein that the traffic to Brooks's 52 non-Portland area CO codes terminate in Brooks's Portland area exchange and not in the locations to which the codes have been assigned, ILECs and other CLECs would be justified in determining that the traffic terminates in Brooks's Portland area exchange and in rating it accordingly, i.e., applying toll charges if the Brooks Portland area exchange is outside the local calling area of any exchange of the ILEC or other CLEC.

7. The use of CO codes, whether by Brooks or by other CLECs or ILECs, for the purpose of allowing customers to avoid toll charges, rather than for the purpose of providing local exchange service, presents a serious risk that CO codes, which are a limited resource within any given area code, will be exhausted and that will be necessary to implement a second area code for the State of Maine. In Docket No. 98-634, the Commission has commenced an investigation into the matter of code exhaust and the need to conserve codes. The Commission finds the exhaustion of CO codes in the 207 area code is undesirable because it will cause substantial disruption to many customers in Maine by requiring them to change either their area code, their seven-digit telephone number or both, and may require 10-digit dialing for some or all intrastate calls.

8. The use of CO codes by Brooks to avoid toll charges creates a serious risk of erosion of the distinction between local calling (home exchange plus exchanges that are within a BSCA) and toll calling that is embodied in the ILECs' terms and conditions and in regulatory policy (e.g., Chapter 204, the Basic Service Calling Areas (BSCA)). Any such breakdown or erosion should occur only pursuant to an intentional policy choice rather than because of the misuse of CO codes. A breakdown of the toll-local distinction, with "free" calling to areas that formerly required toll charges, may have several significant consequences. First, carriers' ability to maintain calling areas that require toll charges might be substantially diminished, with the result that more (or even all) costs would have to be loaded onto rates for basic service, which therefore may need to increase substantially. In addition to rate effects, a breakdown of the toll/local distinction might also have a substantial impact on traffic patterns and levels, on service quality (because of temporary shortage of facilities) and the need to invest in additional transport and switching facilities. The distinction between local and toll in Bell Atlantic's and the

ITCs' tariffs reflects existing traffic volumes and investment patterns.

9. The use of the 52 non-Portland area CO codes by Brooks for the gathering of toll traffic and avoidance of toll charges, rather than for providing local exchange service, is wasteful of scarce resources, creates a substantial risk that the harms described in paragraphs 7 and 8 above will occur, and constitutes an unreasonable act or practice within the meaning of 35-A M.R.S.A. § 1306.

B. Procedure

As factual and legal conclusions proposed in Part IV(A) are all either derived from the proposed factual findings contained in Part III(A) or present legal and policy questions that are not factual issues, we propose that parties address the issues presented by these proposed factual and legal conclusions in briefs and, if necessary, oral argument. To the extent that we make factual findings that differ from those that we have proposed in Part III(A), we will consider the need to modify the procedure for addressing the factual and legal conclusions of this Part B.

V. **POSSIBLE ORDERS**

A. Content

If we adopt the foregoing factual findings and factual and legal conclusions described in Parts III and IV above, we will consider entry of any or all of the following orders:

1. that Brooks Fiber shall cease using the NXX codes for purposes other than providing local service or, in the alternative, that Brooks must turn back to the NANPA all codes that Brooks is not using for the provision for local exchange service;
2. that Brooks not obtain additional codes unless they are used in providing local service as described herein;

3. that because the calls placed to the Brooks non-Portland codes in fact terminate in Portland, the ILECs and other CLECs shall rate those calls as toll or local based on that termination;

4. that, as an alternative to paragraph 3, Brooks must obtain presubscription agreements with ILECs or CIC codes as an interexchange carrier, arrange for transport of calls placed to the non-Portland codes to its switch, and pay access charges to the LECs for the use of their facilities.

5. that all LECs shall allow calls to the Brooks non-Portland area CO codes to be completed and all LECs shall provide immediate written notice to their customers that calls to certain specified CO codes (i.e., calls to those non-Portland Brooks codes that are assigned to locations within the customers' BSCAs) will be rated as toll calls. In addition, all LECs that publish directories shall send errata sheets to all customers who have received a directory that has listed the non-Portland Brooks codes at the locations designated by Brooks, and shall undertake immediate efforts to correct any directories that are in preparation but not yet published.

B. Procedure

We expect to order parties to address the above possible orders by briefing and/or oral agreement.

Therefore, we

O R D E R

1. That the investigation described in this Notice of Investigation open;
2. That the parties in this Investigation shall be New England Fibers Communications L.L.C. d/b/a Brooks Fiber Communications, all incumbent local exchange carriers (ILECs) in Maine, the Telephone Association of Maine (TAM) and intervenors whose petitions to intervene are granted.

3. Petitions to intervene should be filed on or before October 13, 1998. Petitions shall comply with Chapter 110, §722 and with the specific requirements of this Notice, as set forth in Part II and Part III(B).
4. That the *Inquiry Regarding Local Calling Arrangements to CLEC NXX Codes* in Docket No. 98-661 is closed; the record in that proceeding is incorporated in this investigation. Brooks Fiber Communications and Bell Atlantic shall answer the outstanding data requests issued in that the Inquiry and shall file them in this investigation;
5. This investigation shall be subject to the procedure described herein and as established in further procedural orders issued by the Hearing Examiner and the Commission.

Dated at Augusta, Maine this 6th day of October, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:	Welch
	Nugent
ABSTAINING:	Diamond